

BEFORE THE  
WASHINGTON UTILITIES & TRANSPORTATION COMMISSION

DOCKET NO. UE-01\_\_\_\_\_

EXHIBIT NO. \_\_\_\_\_ (KON-17)

WITNESS: KELLY O. NORWOOD, AVISTA CORP

Exhibit No.\_\_\_\_(KON-17)

Docket No. UE-\_\_\_\_\_

## Massey calls for inquiry into market power methodology

**F**ERC Commissioner William Massey, dissenting from two orders yesterday, strongly called for the commission to give up its current method of market power analysis.

"Our current standard is just plain outdated, inadequate and unreliable," Massey said.

Massey has previously attacked the "hub-and-spoke" method of market power analysis, which presumes market power if any single market participant holds a 20% market share.

In April, Pacific Gas & Electric and Southern California Edison made a similar argument in asking FERC to deny renewal of market-based rate authority to Williams Energy Marketing and Trading (MWD 4/4). The two utilities argued that while Williams controls

less than 20% of the generation resources in the state, it is still able to exercise market power. To renew its market-based rate authority, Williams should perform an analysis of market power using other means, the utilities said.

Massey said the events of the California wholesale power market — where no single generator or power seller holds close to 20% market share — during the past year indicate that market power can be exercised by any player holding a much smaller piece. The "20-percent share threshold is too simplistic," he said.

In one decision issued yesterday in draft form, the commission granted market-based rate authority to Sierra Southwest Cooperative

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### Key Hub Trades for Standard 16-Hour Daily Products

Weighted average index prices (in \$/MWh) and volumes are shown for selected major hubs. More detailed price information is available on page X.

Delivery Point	Weighted Average Index	Trading Volume Reported
COB	180.20	125
Mid-Columbia	176.67	1,425
Calo Verde	175.64	1,375
3COT-B	35.12	1,500
Com Ed	16.57	350
Entergy	27.24	5,150
Cinergy	17.22	9,620
PJM	24.25	5,600
TVA	17.74	1,450

## Bush, Davis agree to disagree on price caps

**P**resident Bush and California Gov. Gray Davis have a "fundamental disagreement over whether or not California is entitled to price relief," Davis said after the two met privately in Los Angeles on Tuesday to discuss the state's energy crisis.

Despite intensified arguments that continuing high wholesale power prices will hurt California and the larger U.S. economy, Davis was unable to persuade Bush to support temporary price controls in the state.

Bush again declined Davis' requests for caps on power prices. But California is legally "entitled" to price caps, Davis argued during a press briefing following his

meeting with Bush.

"The president did not create this problem," Davis said of the power crisis. "Like me, he inherited a mess." Davis has lately stuck to his message that California is doing all it can to bring new power plants online and to reduce consumption.

The governor, who acknowledged the president's efforts in other areas to help California, said he and Bush have a "fundamental disagreement" over the issue of price caps. Davis said caps are necessary for California, which is short generation and could pay \$50 billion to \$70 billion this year for its

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## State regulators add views to Bush energy plan

**U**tility regulators from 13 states this week issued a set of national electricity policy recommendations directed at both state and federal lawmakers and officials.

"We feel timing is critical," Montana Public Service Commissioner Bob Anderson, leader of the effort, said. "President Bush issued his energy policy recommendations recently, and we commend him for it. Our recommendations will complement his and enrich the policy debate."

The report identifies seven principal policy areas. "These comprehensive policies present a balance between supply and demand, while recognizing the important role of

energy efficiency, as well as environmental and consumer protection," Anderson said.

Policy-makers should improve existing generation technologies to increase efficiency and minimize environmental impact, the report says. Policies also should promote fuel diversity including "green" power sources.

To ensure reliability, transmission and distribution, companies should provide "adequate and efficient generation," the report says. Delivery companies also should provide a certain minimum level of reliability to all customers "as a part of basic electric service."

Because 95% of customer outages re-

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## Davis ready to take his case to court ... (from page 1)

wer purchases. Davis told Bush he would "pursue every recourse available" to "ensure that markets are functional and rates are just and reasonable."

Davis also said he hoped Bush would communicate to the two new FERC members "that California is entitled to price relief."

So far, federal regulators have taken steps to ensure a competitive power market in the long term, but they have refused to implement short-term caps.

In a meeting that Davis described as "cordial," the governor said he informed the president that he would do all he could to fight for Californians against high power prices charged by generators that Davis accuses of market manipulation.

Davis indicated that action would include lodging a lawsuit against the regulators at FERC. The agency's legal mandate is to ensure that power prices are "just and reasonable," and FERC ruled in a December order that the market was not competitive.

In that order and in subsequent actions, FERC implemented a series of measures aimed ironing out faults in California's market structure and at limiting wholesale prices during power emergencies.

Davis and other state officials claim those actions have failed to limit price spikes and will not help the state avoid blackouts and high costs for power this summer. Three state agencies and the state Assembly have filed petitions within the last few days requesting a rehearing of the agency's latest order on price mitigation measures during power emergencies.

Speaking after his meeting with Bush, Davis indicated those filings are the first step in a legal process that could result in lawsuits against FERC. The state must first exhaust all legal and procedural remedies with FERC before turning to the courts, he said.

A lawsuit filed last week in federal court by senior Democrats in the state Senate and Assembly was dismissed Tuesday because those legislators had not first gone through all appeals channels directly available with FERC, Davis said. A three-judge panel at the Ninth Circuit Court of appeals dismissed the petition, saying only that the "petitioners have not demonstrated that this case warrants the intervention of this court."

FERC Chairman Curt Hebert seemed unfazed at the prospect of Davis' threatened

legal action.

"I think the Ninth Circuit made it clear, FERC is doing our job appropriately," Hebert said at yesterday's commission meeting.

In addition to legal remedies to force federal regulators to act, Davis also pointed to Senate Democrats, who will take control of that body early next month, as potential partners who could help California by approving price cap legislation. California's Democratic senators, Dianne Feinstein and Barbara Boxer, have both introduced bills that would impose price caps in Western markets.

"I'm looking forward to working with the newly constituted United States Senate to make sure that the problems of California and the West ... get a full airing," Davis said.

Davis attempted to sway Bush in favor of price caps by arguing that a crisis-damaged California economy will hurt the nation and that the federal government is required by law to ensure reasonable rates.

But Bush, who has been steadfastly against price caps, explained his opposition to the caps in a speech at the World Affairs Council in Los Angeles. He also noted that the Clinton administration did not call for the imposition of price caps.

"We will not take any action that makes California's problems worse, and that's why I oppose price caps," Bush said. "Price caps do nothing to reduce demand, and they do

nothing to increase supply. This is not only my administration's position, this was the position of the prior administration."

The president said his administration would help California by expanding the state's main north-south transmission line, Path 15; requiring federal facilities in the state to reduce demand 10%; and providing additional funding to low-income consumers to help offset rising electricity and gas prices.

The president also told Davis that he would dispatch newly installed FERC Commissioner Pat Wood, the former head of the Public Utility Commission of Texas, to California to investigate why natural gas prices are higher in the state than in other parts of the country.

Davis called Bush's offer "good news" and said the president agreed with him that it "made little sense for California to receive Texas natural gas at roughly \$15 per British thermal unit, when New York is receiving the same gas at roughly \$5.95 per British thermal unit."

The president wants Wood "to see if there is market manipulation" in the California natural gas market and "to review the wisdom of the Federal Energy Regulatory Commission's decision two years ago," when, Davis said, FERC suspended a tariff that controlled the transportation prices of natural gas when it flows from Texas to other parts of the country. MS/ADP

## Energy economists to testify on market manipulation

California legislators will hear testimony later today from two prominent energy economists on allegations that power generators have colluded to drive up prices in the state's wholesale power markets.

Severin Borenstein and Alfred Kahn are scheduled to testify before the state Senate's Select Committee to Investigate Price Manipulation of the Wholesale Energy Market. Kahn may address issues of physical withholding of power supplies by generators, while Borenstein would likely brief senators on economic models exhibiting generators' ability to exercise market power to raise prices, a representative of committee Chairman Joseph Dunn indicated.

The select committee has taken testimony in three earlier hearings from state energy

officials on plant outages and their effect on prices. Within the next several weeks, the committee also plans to hear from generators, according to the representative.

The "big five" out-of-state generators — Duke, Dynegy, Reliant, Williams/AES and Mirant — will be invited to give their side of the story, as will energy marketer Enron, he said. Those companies have been repeatedly accused by state officials of gouging consumers and engaging in illegal activity.

Borenstein, Kahn and eight other economists last week co-signed a letter to President Bush arguing for the imposition of short-term price caps on wholesale markets. The economists asserted that the failure of deregulation in California could harm the development of competitive electricity markets across the nation. ADP

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## Calif. inks deal with QFs, will release details on long-term contracts

California officials have reached agreements with two groups of small generators that will return the full amount of power contracted by those facilities back to the market, adding between 100 MW and 300 MW of additional power to the state's grid this summer, Gov. Gray Davis said yesterday.

Contracts signed with two groups of qualifying facilities establish new prices for the power they will supply to the second largest investor-owned utility in the state, Southern California Edison, Davis said.

The deals also provide for marginal payment of back debts owed by the utility to the generators, provided the individual facilities produce additional energy at their facilities.

But the effective date of the agreed-to prices is linked to approval by the state Legislature of an agreement between SoCalEd's parent company and the state. The memorandum of understanding between Davis and Edison International would pave the way for the state's purchase of the utility's power lines.

Negotiations between the state and the QFs have resulted in bringing 95% of the power produced by those generators back onto the market, Davis said. Numerous QFs had been withholding their output from the market in protest over nonpayment of past bills by California's largest utilities.

The output of QFs serves up to one-third of California's total

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### INSIDE THE MARKET REPORT

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##### ☐ Prices hold

Good supply, weather avert increases ..... 4

#### CENTRAL MARKETS:

##### ☐ Dailies fall back

Weather cools ..... 4

#### EASTERN MARKETS:

##### ☐ Dailies soften

Wide range in Cinergy continues ..... 5

### Key Hub Trades for Standard 16-Hour Daily Products 06/14/01

Weighted average index prices (in \$/MWh) and volumes are shown for selected major hubs. More detailed price information is available on page 3.

Delivery Point	Weighted Average Index	Trading Volume Reported
COB	57.33	75
Mid-Columbia	56.20	2,100
Palo Verde	62.59	2,025
ERCOT-B	41.17	1,950
ComEd	49.10	2,050
Entergy	51.98	5,900
Cinergy	53.44	11,000
PJM	55.26	8,750
TVA	52.28	2,000

## Cheney, Hebert hold firm on energy policy

Vice President Dick Cheney and FERC Chairman Curt Hebert both pledged yesterday to stay the course when it comes to energy policy. But while both men faced a friendly audience at the Energy Efficiency Forum yesterday at the National Press Club in Washington, their remarks seemed aimed more at winning over a skeptical audience in California.

Cheney and Hebert emphasized the importance of market remedies — and reaffirmed their opposition to price controls. Hebert, for one, was adamant that recent FERC measures would suffice to create a better-functioning market out West.

"California does not mean an end to competition," he said.

Cheney repeated the main selling points of the administration's recently introduced national energy policy. And while he warned of the possible economic impact of the current supply situation, the vice president said that the nation's energy problems could be fixed with a dose of "resolve, ingenuity and clarity of purpose."

The remedies that Cheney listed include the construction of a new gas pipeline that would run from Alaska's North Slope, a proposal that Cheney called "relatively non-

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## FERC clears National Grid purchase of NiMo

With a specific provision on accounting procedures, FERC yesterday approved New York-based Niagara Mohawk Holdings' proposed acquisition by National Grid USA, the U.S. branch of the British transmission utility.

National Grid USA, which operates two transmission and distribution utilities in New England, offered to buy NiMo last September in a \$3 billion cash and stock transaction that includes assumption of \$5.9 billion in NiMo debt (MWD 9/6/00). NiMo serves 1.5 million electricity and 540,000 natural gas customers in upstate New York.

The combined company, which would be a new holding company registered in the

United Kingdom under the name National Grid Group (the same name as the existing overall company), would serve 3.3 million electricity customers in the United States, placing it among the top 10 in terms of customers served.

NiMo will continue as the local utility and will remain under the regulations of New York state.

Both companies have sold substantially all of their generation assets — NiMo's major remaining asset, its interests in the Nine Mile Point nuclear plants, has been committed to Constellation Energy Group — so FERC found no competitive market issues there.

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